

### Article 3.

#### Labor of Prisoners.

##### **§ 148-26. State policy on employment of prisoners.**

(a) It is declared to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action. Work assignments and employment shall be for the public benefit to reduce the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release.

In exercising his power to enter into contracts to supply inmate labor as provided by this section, the Secretary of Public Safety shall not assign any inmate to work under any such contract who is eligible for work release as provided in this Article, study release as provided by G.S. 148-4(4), or who is eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, unless suitable work release employment or educational opportunity cannot be found for the inmate, and the inmate is not eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, and shall not agree to supply inmate labor for any project or service unless it meets all of the following criteria:

- (1) The project or service involves a type of work by which inmates can develop a skill to better equip themselves to return to society;
- (2) The project or service is of benefit to the citizens of North Carolina or units of State or local government thereof, regardless of whether the project or service is performed on public or private property;
- (3) Repealed by Session Laws 1977, c. 824, s. 2.
- (4) Wages shall be paid in an amount not exceeding one dollar (\$1.00) per day per inmate by the local or State contracting agency.

(b) As many minimum custody prisoners as are available and fit for road work, who cannot appropriately be placed on work release, study release, or other full-time programs, and as many medium custody prisoners as are available, fit for road work and can be adequately guarded during such work without reducing security levels at prison units, shall be employed in the maintenance and construction of public roads of the State. The number and location of prisoners to be kept available for work on the public roads shall be agreed upon by the governing authorities of the Department of Transportation and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety far enough in advance of each budget to permit proper provisions to be made in the request for appropriations submitted by the Department of Transportation. Any dispute between the Departments will be resolved by the Governor. Prisoners so employed shall be compensated, at rates fixed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety's rules and regulations for work performed; provided, that no prisoner working on the public roads under the provisions of this section shall be paid more than one dollar (\$1.00) per day from funds provided by the Department of Transportation to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for this purpose. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the Department of Transportation shall develop a program to be implemented no later than July 1, 1982, to the extent money is herein appropriated, which shall include:

- (1) The use of portable toilets for inmate road crews.

(c) As many of the male prisoners available and fit for forestry work shall be employed in the development and improvement of state-owned forests as can be used for this purpose by the agencies controlling these forests.

(d) The remainder of the able-bodied inmates of the State prison system shall be employed so far as practicable in prison industries and agriculture, giving preference to the production of food supplies and other articles needed by state-supported institutions or activities.

(e) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may make such contracts with departments, institutions, agencies, and political subdivisions of the State for the hire of prisoners to perform other appropriate work as will help to make the prisons as nearly self-supporting as is consistent with the purposes of their creation. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may contract with any person or any group of persons for the hire of prisoners for forestry work, soil erosion control, water conservation, hurricane damage prevention, or any similar work certified by the Secretary of Environmental Quality as beneficial in the conservation of the natural resources of this State. All contracts for the employment of prisoners shall provide that they shall be fed, clothed, quartered, guarded, and otherwise cared for by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Such work may include but is not limited to work with State or local government agencies in cleaning, construction, landscaping and maintenance of roads, parks, nature trails, bikeways, cemeteries, landfills or other government-owned or operated facilities.

(e1) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may establish work assignments for inmates or allow inmates to volunteer in service projects that benefit units of State or local government or 501(c)(3) entities that serve the citizens of this State. The work assignments may include the use of inmate labor and the use of Division of Adult Correction and Juvenile Justice of the Department of Public Safety resources in the production of finished goods. Any products made pursuant to this section shall not be subject to the provisions of Article 3A of Chapter 143 of the General Statutes and may be donated to the government unit or 501(c)(3) organization at no cost.

(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the Youth Development Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety unless a complete sight and sound barrier is erected and maintained during the course of the labor performed by the adult inmates.

(g) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish rules, standards, and procedures for establishing inmate labor services contracts with any county or municipality expressing interest in contracting for inmate labor. (1933, c. 172, ss. 1, 14; 1957, c. 349, s. 5; 1967, c. 996, s. 13; 1971, c. 193; 1973, c. 1262, s. 86; 1975, c. 278; c. 506, ss. 1, 2; c. 682, s. 2; c. 716, s. 7; 1977, c. 771, s. 4; c. 802, s. 25.36; c. 824, ss. 1-3; 1981, c. 516; 1981 (Reg. Sess., 1982), c. 1400; 1989, c. 727, s. 218(156); 1997-443, s. 11A.123; 1999-237, s. 18.21; 2001-95, s. 8; 2007-398, s. 1; 2011-145, s. 19.1(h), (i), (l); 2012-83, ss. 59, 61; 2015-241, s. 14.30(v); 2017-186, s. 2(rrrrrr).)

#### **§ 148-26.1. Definitions.**

The following definitions apply:

- (1) to (3) Repealed by Session Laws 1983, c. 709, s. 1, effective July 1, 1983.
- (4) to (7) Repealed by Session Laws 1985, c. 226, s. 2, effective May 23, 1985.

- (8) "State public work project" or "State public work": A useful service other than the construction of buildings performed on any land, or any structure thereon, belonging to any principal department of State government as defined in subdivision (6) above, including, but not limited to, State parks, campuses, playgrounds, highways, roads, lakes, forests and waterways.
- (9) Repealed by Session Laws 1985, c. 226, s. 2, effective May 23, 1985. (1975, c. 682, s. 3; 1983, c. 709, s. 1; 1985, c. 226, s. 2.)

**§§ 148-26.2 through 148-26.4. Repealed by Session Laws 1983, c. 709, s. 1, effective July 1, 1983.**

**§ 148-26.5. Pay and time allowances for work.**

The provisions of G.S. 148-18 and 148-13 shall be applicable to inmate work on local or State public work projects contracted for by the Secretary of Public Safety as provided by G.S. 148-26 through 148-26.4. Travel, cost of inmate wages and custodial supervision expenses incurred by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and arising out of a local or State public work project shall be reimbursed on a cost basis to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety by the local or State contracting agency. (1975, c. 682, s. 3; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(sssssss).)

**§ 148-27:** Repealed by Session Laws 2007-398, s. 3, effective August 21, 2007.

**§ 148-28. Sentencing prisoners to Central Prison; youthful offenders.**

When a sentenced offender is to be taken to the Central Prison at Raleigh, a sheriff or other appropriate officer of the county shall cause such prisoner to be delivered with the proper commitment papers to the warden of the Central Prison. A person under 16 years of age convicted of a felony shall not be imprisoned in the Central Prison at Raleigh unless:

- (1) The person was convicted of a capital felony; or
- (2) He has previously been imprisoned in a county jail or under the authority of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety upon conviction of a felony.

This provision shall not limit the authority of the Secretary of Public Safety from transferring a person under 16 years of age to Central Prison when in the Secretary's determination this person would not benefit from confinement in separate facilities for youthful offenders or when it has been determined that his presence would be detrimental to the implementation of programs designed for the benefit of other youthful offenders. Nor shall this provision limit the authority of the judges of the superior courts of this State or the Secretary of Public Safety from committing or transferring a person under 16 years of age to Central Prison for medical or psychiatric treatment. (1933, c. 172, s. 7; 1971, c. 691; 1973, c. 1262, s. 10; 1977, c. 711, s. 27; 1977, 2nd Sess., c. 1147, s. 32; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(tttttt).)

**§ 148-29. Transportation of convicts to prison; reimbursement to counties; sheriff's expense affidavit.**

(a) The sheriff having in charge any prisoner to be taken to the State prison system shall send the prisoner to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after sentencing and the disposal of all pending charges against the

prisoner, if no appeal has been taken. Beginning on the day after the Section of Prisons of the Division of Adult Correction and Juvenile Justice has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Section of Prisons of the Division of Adult Correction and Juvenile Justice, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the prisoner awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by prisoners awaiting transfer to the State prison system.

If the Section of Prisons of the Division of Adult Correction and Juvenile Justice determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(b) The sheriff having in charge any parolee or post-release supervisee to be taken to the State prison system shall send the prisoner to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after preliminary hearing held under G.S. 15A-1368.6(b) or G.S. 15A-1376(b). Beginning on the day after the Section of Prisons of the Division of Adult Correction and Juvenile Justice has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Section of Prisons of the Division of Adult Correction and Juvenile Justice, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the parolee or post-release supervisee awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by parolees or post-release supervisees awaiting transfer to the State prison system.

If the Section of Prisons of the Division of Adult Correction and Juvenile Justice determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(c) The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by him as true copies of those on file in his office. (1869-70, c. 180, s. 3; 1870-1, c. 124, s. 3; 1874-5, c. 107, s. 3; Code, ss. 3432, 3437, 3438; Rev., ss. 5398, 5399, 5400; C. S., ss. 7718, 7719, 7720; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1977, c. 711, s. 28; 1977, 2nd Sess., c. 1147, s. 32; 1993, c. 257, s. 18; 1996, 2nd Ex. Sess., c. 18, s. 20.2(a); 1997-443, s. 19(a); 1999-237, s. 18.10(b); 2011-145, s. 19.1(h), (j); 2017-186, s. 2(uuuuuuu).)

**§ 148-30. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-31. Maintenance of Central Prison; warden; powers and duties.**

The Central Prison shall be maintained in such a manner as to conform to all the requirements of Article XI of the State Constitution, relating to a State's prison. A suitable person shall be appointed warden of the Central Prison, and he shall succeed to and be vested with all the rights, duties, and powers heretofore vested by law in the superintendent of the State's prison or the warden thereof with respect to capital punishment, or any matter of discipline of the inmates of the prison not otherwise provided for in this Article. (1933, c. 172, s. 14.)

**§ 148-32. Repealed by Session Laws 1977, c. 450, s. 2.**

**§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.**

(a) Repealed by Session Laws 2009-451, s. 19.22A, effective July 1, 2009.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which the local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanor, which local facility shall accept the transferred prisoner.

If no other local confinement facility is available and the reason for the requested transfer is that the local confinement facility that would be required to house the prisoner cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, then the judge may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to a facility operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as designated by the Division of Adult Correction and Juvenile Justice. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to a facility operated by the Division of Adult Correction and Juvenile Justice.

(b1) It is the intent of the General Assembly to authorize the Division of Adult Correction and Juvenile Justice to enter into voluntary agreements with counties to provide housing for misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is further the intent of the General Assembly that the Division of Adult Correction and Juvenile Justice, in conjunction with the North Carolina Sheriffs' Association, Inc., establish a program for housing misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is also the intent of the General Assembly that the Division of Adult Correction and Juvenile Justice contract with the North Carolina Sheriffs'

Association, Inc., to provide a service that identifies space in local confinement facilities that is available for housing these misdemeanants.

The General Assembly intends that the cost of housing and caring for these misdemeanants, including, but not limited to, care, supervision, transportation, medical, and any other related costs, be covered by State funds and not be imposed as a local cost. Therefore, the General Assembly intends that the funds appropriated for the Statewide Misdemeanant Confinement Program be used to provide funding to cover the costs of managing a system for providing that housing of misdemeanants in local confinement facilities as well as reimbursing the counties for housing and related expenses for those misdemeanants.

(b2) The Statewide Misdemeanant Confinement Program is established. The Program shall provide for the housing of misdemeanants from all counties serving sentences imposed for a period of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. Those misdemeanants shall be confined in local confinement facilities except as provided in subsections (b3) and (b4) of this section. The Program shall address methods for the placement and transportation of inmates and reimbursement to counties for the housing of those inmates. Any county that voluntarily agrees to house misdemeanants from that county or from other counties pursuant to the Program may enter into a written agreement with the Division of Adult Correction and Juvenile Justice to do so.

(b3) The custodian of a local confinement facility may request a judicial order to transfer a misdemeanant housed pursuant to the Statewide Misdemeanant Confinement Program to a facility operated by the Division of Adult Correction and Juvenile Justice by certifying in writing to the clerk of the superior court in the county in which the local confinement facility is located that:

- (1) The misdemeanant poses a security risk because the misdemeanant:
  - a. Poses a serious escape risk;
  - b. Exhibits violently aggressive behavior that cannot be contained and warrants a higher level of supervision;
  - c. Needs to be protected from other inmates, and the county jail facility cannot provide such protection;
  - d. Is a female or a person 18 years of age or younger, and the county jail facility does not have adequate housing for such prisoners;
  - e. Is in custody at a time when a fire or other catastrophic event has caused the county jail facility to cease or curtail operations; or
  - f. Otherwise poses an imminent danger to the staff of the county jail facility or to other prisoners in the facility.
- (2) The misdemeanant requires medical or mental health treatment that the county decides can best be provided by the Division of Adult Correction and Juvenile Justice.
- (3) The local confinement facility that would be required to house the prisoner (i) cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, and (ii) no other local confinement facility is available.

Upon receiving such request and certification in writing, any superior or district court judge for the district in which the local confinement facility is located may, after ascertaining that the request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the misdemeanant transferred to a unit of the State prison system designated by the Secretary of Public

Safety or the Secretary's authorized representative. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanant, including the care, supervision, and transportation of the misdemeanant.

(b4) A misdemeanant housed under the Statewide Misdemeanant Confinement Program established pursuant to subsection (b2) of this section may be transferred to a facility operated by the Division of Adult Correction and Juvenile Justice if the North Carolina Sheriffs' Association, Inc., determines that the local confinement facilities available for housing misdemeanants under the Program are filled to capacity. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanant, including the care, supervision, and transportation of the misdemeanant.

(c) Repealed by Session Laws 2015-40, s. 6.

(d) When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to a recommendation of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the Division of Adult Correction and Juvenile Justice, which shall disburse the earnings as determined under G.S. 148-33.1(f). When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to an order of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the clerk of the court that sentenced the prisoner or to the Division of Adult Correction and Juvenile Justice, as provided in the prisoner's commitment order. The clerk or the Division, as appropriate, shall disburse the earnings as provided in the prisoner's commitment order. Upon agreement between the Division of Adult Correction and Juvenile Justice and the custodian of the local confinement facility, however, the clerk may disburse to the local confinement facility the amount of the earnings to be paid for the cost of the prisoner's keep, and that amount shall be set off against the reimbursement to be paid by the Department to the local confinement facility pursuant to G.S. 148-32.1(a).

(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving under G.S. 20-138.1 into a local confinement facility pursuant to this section, the custodian of the local confinement facility shall forward to the Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration, jail credit, and such other information as may be required by the Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Division of Adult Correction and Juvenile Justice. (1977, c. 450, s. 3; c. 925, s. 2; 1981, c. 859, s. 25; 1985, c. 226, s. 3(1), (2); 1985 (Reg. Sess., 1986), c. 1014, ss. 199, 201(e); 1987, c. 7, ss. 2, 6; 1987 (Reg. Sess., 1988), c. 1037, s. 120; c. 1100, s. 17.4(a); 1989, c. 1, s. 2; c. 761, s. 3; 1991, c. 217, s. 6; 1993, c. 538, s. 33; 1994, Ex. Sess., c. 14, s. 65; c. 24, s. 14(b); 1995, c. 324, s. 19.9(f); 1997-456, s. 23; 2004-199, s. 48; 2004-203, s. 54; 2009-451, s. 19.22A; 2011-145, s. 19.1(h), (i); 2011-192, s. 7(a), (d), (e), (g); 2014-100, s. 16C.1(f); 2015-40, s. 6; 2016-94, s. 17C.1(d); 2017-186, s. 2(vvvvvvvv).)

#### **§ 148-32.2. Community work crew fee.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may charge a fee to any unit of local government to which it provides, upon request, a community work crew. The amount of the fee shall be no more than the cost to the Division to provide the crew to

the unit of local government. (2009-451, s. 19.24; 2011-145, s. 19.1(h); 2014-100, s. 16C.2; 2017-186, s. 2(wwwwwww).)

### **§ 148-33. Prison labor furnished other State agencies.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may furnish to any of the other State departments, State institutions, or agencies, upon such conditions as may be agreed upon from time to time between the Division and the governing authorities of such Department, institution or agency, prison labor for carrying on any work where it is practical and desirable to use prison labor in the furtherance of the purposes of any State department, institution or agency, and such other employment as is now provided by law for inmates of the State's prison under the provisions of G.S. 148-6: Provided that such prisoners shall at all times be under the custody of and controlled by the duly authorized agent of such Division. Provided, further, that notwithstanding any provisions of law contained in this Article or in this Chapter, no prisoner or group of prisoners may be assigned to work in any building utilized by any State department, agency, or institution unless a duly designated custodial agent of the Secretary of Public Safety is assigned to the building to maintain supervision and control of the prisoner or prisoners working there. (1933, c. 172, s. 30; 1957, c. 349, s. 10; 1961, c. 966; 1967, c. 996, ss. 13, 15; 1973, c. 1262, s. 10; 2007-398, s. 4; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(xxxxxxx).)

### **§ 148-33.1. Sentencing, quartering, and control of prisoners with work-release privileges.**

(a) Whenever a person is sentenced to imprisonment for a term to be served in the State prison system or a local confinement facility, the Secretary of Public Safety may authorize the Director of Prisons or the custodian of the local confinement facility to grant work-release privileges to any inmate who is eligible for work release and who has not been granted work-release privileges by order of the sentencing court. The Secretary of Public Safety shall authorize immediate work-release privileges for any person serving a sentence not exceeding five years in the State prison system and for whom the presiding judge shall have recommended work-release privileges when (i) it is verified that appropriate employment for the person is available in an area where, in the judgment of the Secretary, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety has facilities to which the person may suitably be assigned, and (ii) custodial and correctional considerations would not be adverse to releasing the person without supervision into the free community.

(b) Repealed by Session Laws 1981, c. 541, s. 2.

(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall from time to time, as the need becomes evident, designate and adapt facilities in the State prison system for quartering prisoners with work-release privileges. No State or county prisoner shall be granted work-release privileges by the Director of Prisons or the custodian of a local confinement facility until suitable facilities for quartering him have been provided in the area where the prisoner has employment or the offer of employment.

(d) The Secretary of Public Safety is authorized and directed to establish a work-release plan under which an eligible prisoner may be released from actual custody during the time necessary to proceed to the place of his employment, perform his work, and return to quarters designated by the prison authorities. If the prisoner shall violate any of the conditions prescribed by prison rules and regulations for the administration of the work-release plan, then such prisoner may be withdrawn from work-release privileges, and the prisoner may be transferred to the general



prison population to serve out the remainder of his sentence. Rules and regulations for the administration of the work-release plan shall be established in the same manner as other rules and regulations for the government of the State prison system.

(e) The State Department of Labor shall exercise the same supervision over conditions of employment for persons working in the free community while serving sentences imposed under this section as the Department does over conditions of employment for free persons.

(f) A prisoner who is convicted of a felony and who is granted work-release privileges shall give his work-release earnings, less standard payroll deductions required by law, to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. A prisoner who is convicted of a misdemeanor, is committed to a local confinement facility, and is granted work-release privileges by order of the sentencing court shall give his work-release earnings, less standard payroll deductions required by law, to the custodian of the local confinement facility. Other misdemeanants granted work-release privileges shall give their work-release earnings, less standard payroll deductions required by law, to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the sentencing court, as appropriate, shall determine the amount to be deducted from a prisoner's work-release earnings to pay for the cost of the prisoner's keep and to accumulate a reasonable sum to be paid the prisoner when he is paroled or discharged from prison. The Division or sentencing court shall also determine the amount to be disbursed by the Division or clerk of court, as appropriate, for each of the following:

- (1) To pay travel and other expenses of the prisoner made necessary by his employment;
- (2) To provide a reasonable allowance to the prisoner for his incidental personal expenses;
- (3) To make payments for the support of the prisoner's dependents in accordance with an order of a court of competent jurisdiction, or in the absence of a court order, in accordance with a determination of dependency status and need made by the local department of social services in the county of North Carolina in which such dependents reside;
- (3a) To make restitution or reparation as provided in G.S. 148-33.2.
- (4) To comply with an order from any court of competent jurisdiction regarding the payment of an obligation of the prisoner in connection with any judgment rendered by the court.
- (5) To comply with a written request by the prisoner to withhold an amount, when the request has been granted by the Division or the sentencing court, as appropriate.

Any balance of his earnings remaining at the time the prisoner is released from prison shall be paid to him. The Social Services Commission is authorized to promulgate uniform rules and regulations governing the duties of county social services departments under this section.

(g) No prisoner employed in the free community under the provisions of this section shall be deemed to be an agent, employee, or involuntary servant of the State prison system while working in the free community or going to or from such employment.

(h) Any prisoner employed under the provisions of this section shall not be entitled to any benefits under Chapter 96 of the General Statutes entitled "Employment Security" during the term of the sentence.

(i) No recommendation for work release shall be made at the time of sentencing in any case in which the presiding judge shall suspend the imposition of sentence and place a convicted person on probation; however, if probation be subsequently revoked and the active sentence of imprisonment executed, the court may at that time recommend work release. Neither a recommendation for work release by the court or the decision of the Secretary of Public Safety to place a person on work release shall give rise to any vested statutory right to an individual to be placed on or continued on work release.

(j) The provisions of subsections (f), (g), and (h) of this section shall also apply to prisoners employed in private prison enterprises conducted pursuant to G.S. 148-70. (1957, c. 540; 1959, c. 126; 1961, c. 420; 1963, c. 469, ss. 1, 2; 1967, c. 684; c. 996, s. 13; 1969, c. 982; 1973, c. 476, s. 138; c. 1262, s. 10; 1975, c. 22, ss. 1-3; c. 679, s. 3; 1977, c. 450, ss. 4, 5; c. 614, s. 6; c. 623, ss. 1, 2; c. 711, s. 29; 1977, 2nd Sess., c. 1147, s. 32; 1981, c. 541, ss. 1-3; 1985, c. 474, s. 3; 1985 (Reg. Sess., 1986), c. 1014, s. 201(f)-(i); 1991 (Reg. Sess., 1992), c. 902, s. 6; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, ss. 2(yyyyyyy), 3(a).)

#### **§ 148-33.2. Restitution by prisoners with work-release privileges.**

(a) Repealed by Session Laws 1985, c. 474, s. 4.

(b) As a rehabilitative measure, the Secretary of Public Safety is authorized to require any prisoner granted work-release privileges to make restitution or reparation to an aggrieved party from any earnings gained by the defendant while on work release when the sentencing court recommends that restitution or reparation be paid by the defendant out of any earnings gained by the defendant if he is granted work-release privileges and out of other resources of the defendant, including all real and personal property owned by the defendant and the income derived from such property. The Secretary shall not be bound by such recommendation, but if they elect not to implement the recommendation, they shall state in writing the reasons therefor, and shall forward the same to the sentencing court.

(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Secretary of Public Safety that restitution or reparation be made by the defendant out of any earnings gained by the defendant if he is granted work-release privileges and out of other resources of the defendant, including all real and personal property owned by the defendant, and income derived from such property. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody. The recommendation shall be in accordance with the applicable provisions of G.S. 15A-1343(d) and Article 81C of Chapter 15A of the General Statutes. If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court may order the defendant to pay from work release earnings the cost of rehabilitative treatment for the minor. The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its recommendation.

(d) The Secretary of Public Safety shall establish rules and regulations to implement this section, which shall include adequate notice to the prisoner that the payment of restitution or reparation from any earnings gained by the prisoner while on work release is being considered as a condition of any work-release privileges granted the prisoner, and opportunity for the prisoner to be heard. Such rules and regulations shall also provide additional methods whereby facts may

be obtained to supplement the recommendation of the sentencing court. (1977, c. 614, s. 7; 1977, 2nd Sess., c. 1147, s. 33; 1981, c. 541, ss. 4-9; 1985, c. 474, s. 4; 1987, c. 397, ss. 2, 3; c. 598, s. 5; 1998-212, s. 19.4(g); 2011-145, s. 19.1(i).)

**§§ 148-34 through 148-35. Repealed by Session Laws 1957, c. 349, s. 11.**

**§ 148-36. Secretary of Public Safety to control classification and operation of prison facilities.**

All facilities established or acquired by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be under the administrative control and direction of the Secretary of Public Safety, and operated under rules and regulations proposed by the Secretary and adopted by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as provided in G.S. 148-11. Subject to such rules and regulations, the Secretary shall classify the facilities of the State prison system and develop a variety of programs so as to permit proper segregation and treatment of prisoners according to the nature of the offenses committed, the character and mental condition of the prisoners, and such other factors as should be considered in providing an individualized system of discipline, care, and correctional treatment of persons committed to the Division. The Secretary of Public Safety, or his authorized representative, shall designate the places of confinement where sentences to imprisonment in the State's prison system shall be served. The Secretary or his representative may designate any available facility appropriate for the individual in view of custodial and correctional considerations. (1931, c. 145, s. 28; c. 277, s. 8; 1933, c. 46, ss. 3, 4; c. 172, ss. 4, 17; 1943, c. 409; 1955, c. 238, s. 7; 1957, c. 349, s. 10; 1967, c. 996, s. 7; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(zzzzzzz).)

**§ 148-37. Additional facilities authorized; contractual arrangements.**

(a) Subject to the provisions of G.S. 143-341, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may establish additional facilities for use by the Division, such facilities to be either of a permanent type of construction or of a temporary or movable type as the Division may find most advantageous to the particular needs, to the end that the prisoners under its supervision may be so distributed throughout the State as to facilitate individualization of treatment designed to prepare them for lawful living in the community where they are most likely to reside after their release from prison. For this purpose, the Division may purchase or lease sites and suitable lands adjacent thereto and erect necessary buildings thereon, or purchase or lease existing facilities, all within the limits of allotments as approved by the Department of Administration.

(b) The Secretary of Public Safety may contract with the proper official of the United States or of any county or city of this State for the confinement of federal prisoners after they have been sentenced, county, or city prisoners in facilities of the State prison system or for the confinement of State prisoners in any county or any city facility located in North Carolina, or any facility of the United States Bureau of Prisons, when to do so would most economically and effectively promote the purposes served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Except as otherwise provided, any contract made under the authority of this subsection shall be for a period of not more than two years, and shall be renewable from time to time for a period not to exceed two years. Contracts made under the authority of this subsection for the confinement of State prisoners in local or district confinement facilities may be

for a period of not more than 10 years and renewable from time to time for a period not to exceed 10 years, and shall be subject to the approval of the Council of State and the Department of Administration after consultation with the Joint Legislative Commission on Governmental Operations. Contracts for receiving federal, county and city prisoners shall provide for reimbursing the State in full for all costs involved. The financial provisions shall have the approval of the Department of Administration before the contract is executed. Payments received under such contracts shall be deposited in the State treasury for the use of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Such payments are hereby appropriated to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as a supplementary fund to compensate for the additional care and maintenance of such prisoners as are received under such contracts.

(b1) Recodified as G.S. 148-37.2 by Session Laws 2001-84, s. 1, effective May 17, 2001.

(c) In addition to the authority contained in subsections (a) and (b) of this section, and in addition to the contracts ratified by subsection (f) of this section, the Secretary of Public Safety may enter into contracts with any public entity or any private nonprofit or for-profit firms for the confinement and care of State prisoners in any out-of-state correctional facility when to do so would most economically and effectively promote the purposes served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Contracts entered into under the authority of this subsection shall be for a period not to exceed two years and shall be renewable from time to time for a period not to exceed two years. Prisoners may be sent to out-of-state correctional facilities only when there are no available facilities in this State within the State prison system to appropriately house those prisoners. Any contract made under the authority of this subsection shall be approved by the Department of Administration before the contract is executed. Before expending more than the amount specifically appropriated by the General Assembly for the out-of-state housing of inmates, the Division shall obtain the approval of the Joint Legislative Commission on Governmental Operations and shall report such expenditures to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

(d) Prisoners confined in out-of-state correctional facilities pursuant to subsection (c) of this section shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The rules regarding good time and gain time, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in those out-of-state correctional facilities. The operators of those out-of-state correctional facilities may promulgate any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Public Safety. Custodial officials employed by an out-of-state correctional facility are agents of the Secretary of Public Safety and may use those procedures for use of force authorized by the Secretary of Public Safety not inconsistent with the laws of the State of situs of the facility to defend themselves, to enforce the observance of discipline in compliance with correctional facility rules, to secure the person of a prisoner, and to prevent escape. Prisoners confined to out-of-state correctional facilities may be required to perform reasonable work assignments within those facilities. Private firms under subsection (c) of this section shall employ inmate disciplinary and grievance policies of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(e) Repealed by Session Laws 1995, c. 324, s. 19.10.

(f) Any contracts entered into by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with public contractors prior to March 25, 1994, for the out-of-state housing of inmates are ratified.

(g) The Secretary of Public Safety may contract with private for-profit or nonprofit firms for the provision and operation of four or more confinement facilities totaling up to 2,000 beds in the State to house State prisoners when to do so would most economically and effectively promote the purposes served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This 2,000-bed limitation shall not apply to the 500 beds in private substance abuse treatment centers authorized by the General Assembly prior to July 1, 1995. Whenever the Division of Adult Correction and Juvenile Justice of the Department of Public Safety determines that new prison facilities are required in addition to existing and planned facilities, the Division may contract for any remaining beds authorized by this section before constructing State-operated facilities.

Contracts entered under the authority of this subsection shall be for a period not to exceed 10 years, shall be renewable from time to time for a period not to exceed 10 years. The Secretary of Public Safety shall enter contracts under this subsection only if funds are appropriated for this purpose by the General Assembly. Contracts entered under the authority of this subsection may be subject to any requirements for the location of the confinement facilities set forth by the General Assembly in appropriating those funds.

Once the Division has made a determination to contract for additional private prison beds, it shall issue a request for proposals within 30 days of the decision. The request for proposals shall require bids to be submitted within two months, and the Division shall award contracts at the earliest practicable date after the submission of bids. The Secretary of Public Safety, in consultation with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, shall make recommendations to the State Purchasing Officer on the final award decision. The State Purchasing Officer shall make the final award decision, and the contract shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.

Contracts made under the authority of this subsection may provide the State with an option to purchase the confinement facility or may provide for the purchase of the confinement facility by the State. Contracts made under the authority of this subsection shall state that plans and specifications for private confinement facilities shall be furnished to and reviewed by the Office of State Construction. The Office of State Construction shall inspect and review each project during construction to ensure that the project is suitable for habitation and to determine whether the project would be suitable for future acquisition by the State. All contracts for the housing of State prisoners in private confinement facilities shall require a minimum of ten million dollars (\$10,000,000) of occurrence-based liability insurance and shall hold the State harmless and provide reimbursement for all liability arising out of actions caused by operations and employees of the private confinement facility.

Prisoners housed in private confinement facilities pursuant to this subsection shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The Secretary of Public Safety may review and approve the design and construction of private confinement facilities before housing State prisoners in these facilities. The rules regarding good time, gain time, and earned credits, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates

housed in private confinement facilities pursuant to this subsection. The operators of private confinement facilities may adopt any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Public Safety. Custodial officials employed by a private confinement facility are agents of the Secretary of Public Safety and may use those procedures for use of force authorized by the Secretary of Public Safety to defend themselves, to enforce the observance of discipline in compliance with confinement facility rules, to secure the person of a prisoner, and to prevent escape. Private firms under this subsection shall employ inmate disciplinary and grievance policies of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(h) Private confinement facilities under this section shall be designed, built, and operated in accordance with applicable State laws, court orders, fire safety codes, and local regulations.

(i) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall make a written report no later than March 1 of every year, beginning in 1997, on the substance of all outstanding contracts for the housing of State prisoners entered into under the authority of this section. The report shall be submitted to the Joint Legislative Oversight Committee on Justice and Public Safety. (1933, c. 172, s. 19; 1957, c. 349, s. 10; 1967, c. 996, s. 8; 1973, c. 1262, s. 10; 1975, c. 879, s. 46; 1977, 2nd Sess., c. 1147, s. 34; 1994, Ex. Sess., c. 24, s. 16(a), (b); 1995, c. 324, s. 19.10(a), (b); c. 507, s. 19; 1996, 2nd Ex. Sess., c. 18, s. 20.18; 1997-443, ss. 21.4(c)-(e); 1999-237, s. 18.20(a); 2001-84, s. 1; 2001-138, s. 2; 2011-145, s. 19.1(h), (i); 2011-291, ss. 2.56-2.58; 2012-83, s. 61; 2015-241, s. 16C.10(a); 2017-186, s. 2(aaaaaaaa).)

#### **§ 148-37.1. Prohibition on private prisons housing out-of-state inmates.**

(a) Except as otherwise provided in this section or authorized by North Carolina law, no municipality, county, or private entity may authorize, construct, own, or operate any type of correctional facility for the confinement of inmates serving sentences for violation of the laws of a jurisdiction other than North Carolina.

(b) The provisions of this section shall not apply to facilities owned or operated by the federal government and used exclusively for the confinement of inmates serving sentences for violation of federal law, but only to the extent that such facilities are not subject to restriction by the states under the provisions of the United States Constitution. (2000-67, s. 16.3(a).)

**§ 148-37.2:** Repealed by Session Laws 2015-241, s. 16C.10(b), effective July 1, 2015.

#### **§ 148-37.3. Authority of private correctional officers employed pursuant to a contract with the Federal Bureau of Prisons.**

(a) Correctional officers and security supervisors employed at private correctional facilities pursuant to a contract between their employer and the Federal Bureau of Prisons may, in the course of their employment as correctional officers or security supervisors, use necessary force and make arrests consistent with the laws applicable to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, which force shall not exceed that authorized to Division of Adult Correction and Juvenile Justice of the Department of Public Safety officers, provided that the employment policies of such private corporations meet the same minimum standards and practices followed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in employing its correctional personnel, and if:

- (1) Those correctional officers and security supervisors have been certified as correctional officers as provided under Article 1 of Chapter 17C of the General Statutes; or
- (2) Those correctional officers and security supervisors employed by the private corporation at the facility have completed a training curriculum that meets or exceeds the standards required by the North Carolina Criminal Justice Education and Training Standards Commission for correctional personnel.

(b) Any private corporation described in subsection (a) of this section shall without limit defend, indemnify, and hold harmless the State, its officers, employees, and agents from any claims arising out of the operation of the private correctional facility, or the granting of the powers authorized under this section, including any attorneys' fees or other legal costs incurred by the State, its officers, employees, or agents as a result of such claims.

(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility.

(d) Any private corporation described in subsection (a) of this section must maintain in force liability insurance to satisfy any final judgment rendered against the private corporation or the State, its officers, employees, and agents that arises out of the operation of the correctional facility or the indemnification requirements in subsection (b) of this section. The minimum amount of liability insurance that will be required under this section is ten million dollars (\$10,000,000) per occurrence, and twenty-five million dollars (\$25,000,000) aggregate per occurrence.

(e) Repealed by Session Laws 2007-162, s. 1, effective July 1, 2007.

(f) The authority set forth in this section to use necessary force and make arrests shall be in addition to any existing authority set forth in the statutory or common law of the State, but shall not exceed the authority to use necessary force and make arrests set out in subsection (a) of this section.

(g) A private corporation described in subsection (a) of this section shall bear the reasonable costs of services provided by the State, its officers, employees, and agents for the corporation. The amount of the costs shall be determined by the member of the Council of State or Cabinet member of the agency or department that provided the services.

(h) This section is effective August 18, 2001 and applies to private correctional facilities and the employees of those correctional facilities constructed and contracted to be operated by August 18, 2001. (2001-378, ss. 1-7; 2003-351, s. 1; 2007-162, s. 1; 2011-145, s. 19.1(h); 2012-83, s. 61; 2014-100, s. 17.1(III); 2017-186, s. 2(bbbbbbbb); 2018-5, s. 17.1(a).)

**§§ 148-38 through 148-39. Repealed by Session Laws 1957, c. 349, s. 11.**

#### **§ 148-40. Recapture of escaped prisoners.**

The rules and regulations for the government of the State prison system may provide for the recapture of convicts that may escape, or any convicts that may have escaped from the State's

prison or prison camps, or county road camps of this State, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may pay to any person recapturing an escaped convict such reward or expense of recapture as the regulations may provide. Any citizen of North Carolina shall have authority to apprehend any convict who may escape before the expiration of his term of imprisonment whether he be guilty of a felony or misdemeanor, and retain him in custody and deliver him to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1933, c. 172, s. 21; 1955, c. 238, s. 8; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(ccccccc).)

**§ 148-41. Recapture of escaping prisoners; reward.**

The Secretary of Public Safety shall use every means possible to recapture, regardless of expense, any prisoners escaping from or leaving without permission any of the State prisons, camps, or farms. When any person who has been confined or placed to work escapes from the State prison system, the Secretary shall immediately notify the Governor, and accompany the notice with a full description of the escaped prisoner, together with such information as will aid in the recapture. The Governor may offer such rewards as he may deem desirable and necessary for the recapture and return to the State prison system of any person who may escape or who heretofore has escaped therefrom. Such reward earned shall be paid by warrant of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and accounted for as a part of the expense of maintaining the State's prisons. (1873-4, c. 158, s. 13; Code, s. 3442; Rev., s. 5407; 1917, c. 236; c. 286, s. 13; C. S., ss. 7742, 7743; 1925, c. 163; 1933, c. 172, s. 18; 1935, c. 414, s. 16; 1943, c. 409; 1955, c. 238, s. 9; c. 279, s. 3; 1957, c. 349, s. 10; 1967, c. 996, ss. 13, 15; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(dddddddd).)

**§ 148-42. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-43. Repealed by Session Laws 1963, c. 1174, s. 5.**

**§ 148-44. Separation as to sex.**

The Department shall provide quarters for female prisoners separate from those for male prisoners. (1933, c. 172, s. 25; 1947, c. 262, s. 2; 1957, c. 349, s. 10; 1963, c. 1174, s. 2; 1985, c. 226, s. 3(3).)

**§ 148-45. Escaping or attempting escape from State prison system; failure of conditionally and temporarily released prisoners and certain youthful offenders to return to custody of Division of Adult Correction and Juvenile Justice of the Department of Public Safety.**

(a) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in any of the classifications hereinafter set forth who shall escape from the State prison system, shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a Class 1 misdemeanor:

- (1) A prisoner serving a sentence imposed upon conviction of a misdemeanor;
- (2) A person who has been charged with a misdemeanor and who has been committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 4.



- (4) A person who shall have been convicted of a misdemeanor and who shall have been committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for presentence diagnostic study under the provisions of G.S. 15A-1332(c).
- (b) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, in any of the classifications hereinafter set forth, who shall escape from the State prison system, shall, except as provided in subsection (g) of this section, be punished as a Class H felon:
  - (1) A prisoner serving a sentence imposed upon conviction of a felony;
  - (2) A person who has been charged with a felony and who has been committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under the provisions of G.S. 162-39;
  - (3) Repealed by Session Laws 1985, c. 226, s. 5.
  - (4) A person who shall have been convicted of a felony and who shall have been committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for presentence diagnostic study under the provisions of G.S. 15A-1332(c); or
  - (5) Any person previously convicted of escaping or attempting to escape from the State prison system.
- (c) Repealed by Session Laws 1979, c. 760, s. 5.
- (d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a Class 1 misdemeanor.
- (e) Repealed by Session Laws 1983, c. 465, s. 5.
- (f) Any person convicted of an escape or attempt to escape classified as a felony by this section shall be immediately classified and treated as a convicted felon even if such person has time remaining to be served in the State prison system on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors.
- (g)
  - (1) Any person convicted and in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and temporarily allowed to leave a place of confinement by the Secretary of Public Safety or his designee or other authority of law, who shall fail to return to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willful failure to return to an appointed place and at an appointed time as ordered.
  - (2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within 24 hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; said escapee shall not be allowed to be placed on work release for a

four-month period or for the balance of his term if less than four months; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with that offense and, if convicted, punished under the provisions of this section. (1933, c. 172, s. 26; 1955, c. 279, s. 2; 1963, c. 681; 1965, c. 283; 1967, c. 996, s. 13; 1973, c. 1120; c. 1262, s. 10; 1975, cc. 170, 241, 705; c. 770, ss. 1, 2; 1977, c. 732, ss. 3, 4; c. 745; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 465, ss. 1-5; 1985, c. 226, ss. 3(4)-6; 1993, c. 539, ss. 1058, 1321, 1322; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(t); 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(eeeeeeee).)

**§ 148-46. Degree of protection against violence allowed.**

(a) When any prisoner, or several combined shall offer violence to any officer, overseer, or correctional officer, or to any fellow prisoner, or attempt to do any injury to the prison building, or to any workshop, or other equipment, or shall attempt to escape, or shall resist, or disobey any lawful command, the officer, overseer, or correctional officer shall use any means necessary to defend himself, or to enforce the observance of discipline, or to secure the person of the offender, and to prevent an escape.

(b) A misdemeanor prisoner classified and treated as a convicted felon as the result of a consecutive felony sentence or sentences, or a convicted felon placed in the custody of the Secretary of Public Safety pending the outcome of an appeal, or a defendant charged with a felony or felonies and placed in the custody of the Secretary of Public Safety pending trial, shall be considered as a convicted felon in the custody of the Secretary of Public Safety against whom any means reasonably necessary, including deadly force, may be used to prevent an escape. (1933, c. 172, s. 27; 1975, c. 230; 2011-145, s. 19.1(i); 2016-77, s. 8(d).)

**§ 148-46.1. Inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties.**

Any person serving a sentence or sentences within the State prison system who, during the term of such imprisonment, willfully and intentionally inflicts upon himself any injury resulting in a permanent or temporary incapacity to perform work or duties assigned to him by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or any prisoner who aids or abets any other prisoner in the commission of such offense, shall be punished as a Class H felon. (1959, c. 1197; 1967, c. 996, s. 13; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1323; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(v); 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(fffffff).)

**§ 148-46.2. Procedure when consent is refused by prisoner.**

When the Secretary of Public Safety finds as a fact that the injury to any prisoner was willfully and intentionally self-inflicted and that an operation or treatment is necessary for the preservation or restoration of the health of the prisoner and that the prisoner is competent to act for himself or herself; and that attempts have been made to obtain consent for the proposed operation or treatment but such consent was refused, and the findings have been reduced to writing and entered into the prisoner's records as a permanent part thereof, then the chief medical officer of the prison hospital or prison institution shall be authorized to give or withhold, on behalf of the prisoner, consent to the operation or treatment.

In all cases coming under the provisions of this section, the medical staff of the hospital or institution shall keep a careful and complete medical record of the treatment and surgical procedures undertaken. The record shall be signed by the chief medical officer of the hospital or institution and the surgeon performing any surgery. Any treatment of self-inflicted injuries shall also be subject to the provisions of G.S. 90-21.13 and G.S. 90-21.16. (1959, c. 1196; 1967, c. 996, s. 15; 1969, c. 982; 1973, c. 1262, s. 10; 1981, c. 307, ss. 4-7, 9; 2004-203, s. 53(b); 2011-145, s. 19.1(i).)

**§ 148-47. Disposition of child born of female prisoner.**

Any child born of a female prisoner while she is in custody shall as soon as practicable be surrendered to the director of social services of the county wherein the child was born upon a proper order of the domestic relations court or juvenile court of said county affecting the custody of said child. When it appears to be for the best interest of the child, the court may place custody beyond the geographical bounds of Wake County: Provided, however, that all subsequent proceedings and orders affecting custody of said child shall be within the jurisdiction of the proper court of the county where the infant is residing at the time such proceeding is commenced or such order is sought: Provided, further, that nothing in this section shall affect the right of the mother to consent to the adoption of her child nor shall the right of the mother to place her child with the legal father or other suitable relative be affected by the provisions of this section. (1933, c. 172, s. 28; 1955, c. 1027; 1961, c. 186; 1969, c. 982.)

**§ 148-48. Parole powers of Parole Commission unaffected.**

Nothing in this Chapter shall be construed to limit or restrict the power of the Parole Commission to parole prisoners under such conditions as it may impose or prevent the reimprisonment of such prisoners upon violation of the conditions of such parole, as now provided by law. (1933, c. 172, s. 29; 1955, c. 867, s. 8; 1973, c. 1262, s. 10.)

**§ 148-49. Prison indebtedness not assumed by Board of Transportation.**

The Board of Transportation shall not assume or pay off any part of the deficit of the State prison existing on March 22, 1933. (1933, c. 172, s. 33; 1973, c. 507, s. 5.)